

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

- v. -

DAVID SMOTHERMON,

*Defendant.*

Case No. 19 Cr. 382 (AKH)

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE THAT**, upon the accompanying Memorandum of Law and Declaration of George D. Murphy, Jr. and accompanying exhibits, Defendant David Smothermon will move before the Honorable Alvin K. Hellerstein on September 18, 2024 at 11:00 am, or another date and time to be set by the Court, for an order:

1. Dismissing the Superseding Indictment pursuant to Federal Rule of Criminal Procedure 12(b), for failure to state an offense and untimeliness, or in the alternative;
2. Adjourning all proceedings in this action pending the Supreme Court's decision in *Kousisis v. United States*, *cert. granted* (U.S. June 17, 2024) (23-909); and
3. Granting such other relief as this Court's deems just and proper.

Dated: July 19, 2024  
New York, New York

Respectfully submitted,

/s/ Alexandra A.E. Shapiro

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